

REMARKS

This amendment is in response to the Office Action mailed November 7, 2002. Reconsideration of this application as amended and in light of the following remarks is respectfully requested.

Status of the Claims

Claims 1-32 are pending in the application. Claims 1-5, 11-13, 17-21, and 26-32 stand rejected.

Claims 20, 27, and 28 have been amended. Claim 31 has been amended to depend from claim 28.

Claim 19 has been cancelled without prejudice.

Applicants acknowledge the allowance of claims 22-25 and the Examiner's statement of allowable subject matter in claims 6-10 and 14-16.

Rejection Under 35 U.S.C. §102(e)

Claims 1-5 stand rejected as being anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 6,324,268 to Balachandran et al. Applicants respectfully traverse this rejection.

The Balachandran patent has a priority date of March 1, 1999. While the present application has a filing date of May 18, 1999, Applicants attest that the claimed inventions have an invention date which is earlier than the priority date of

Balachandran. In support of this earlier date of conception, Applicants are filing herewith a Declaration Under 37 C.F.R. § 1.131, signed by the inventors on April 1 and 3, 2003. Therefore, Applicants respectfully submit that Balachandran does not qualify as prior art under 35 U.S.C. § 102(e), and request that the rejection of claims 1-5 be withdrawn.

Claims 28-32 stand rejected as being anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 6,426,961 to Nimmagadda. In response, Applicants have amended claim 28. Because Nimmagadda determines off-hook status with respect to the subscriber's voice telecommunication device, while the claimed method makes that determination with respect to the data modem itself, the reference does not anticipate the claimed invention.

Nimmagadda discloses a method for determining if a request for data service will be put into a wait mode if voice service is in use. The method disclosed by Nimmagadda makes "a detection of the voice service being used with respect to the telecommunications device at the customer's premise." (Column 5, lines 3-5 and lines 55-57.) The patent discloses that the off-hook state is determined when "the ADSL modem makes a detection of an off-hook indication with respect to the subscriber's telecommunication device." (Column 6, lines 16-18.)

In contrast, amended independent claim 28 distinguishes from Nimmagadda by reciting a method which includes the step of "determining the off-hook state by detecting operational changes in a digital subscriber line modem."

Nimmagadda determines the off-hook state by monitoring the hookswitch status of the subscriber's voice telecommunication device, while amended claim 28 makes the same determination by monitoring the effect hook status has on the modem's operability. This amendment is supported in the Specification at, generally, page 24, lines 19-21. Therefore, no new matter is added by this amendment.

Applicants respectfully request that, because Nimmagadda does not teach or disclose each and every element of amended claim 28, the rejection be withdrawn and reconsideration granted. Dependant claims 29-32 depend from amended claim 28 and are therefore allowable for at least the same reasons as amended claim 28.

Objection to Claims 6-10 and 14-16

Claims 6-10 and 14-16 are objected to as being dependent upon a rejected base claim.

Claims 6-10 depend from independent claim 1, and claims 14-16 depend from independent claim 11. Independent claims 1 and 11 all stand rejected. However as detailed in the previous section, Applicants attest that the claimed inventions have an invention date which is earlier than the effective date of the prior art reference being applied against claims 1 and 11. A Declaration under 37 C.F.R. § 1.131 to that effect is submitted herewith. Accordingly, Applicants state that claims 6-10 and 14-16 are in condition for allowance.

Rejection Under 35 U.S.C. § 102(b)

Claim 19 is rejected as being anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 6,229,855 to Takatori.

Takatori discloses an adaptive transmitter for digital transmission that measures cable loss between the central office and the remote site, and adjusts transmit power to a value that provides an acceptable signal-to-noise ratio. However, Takatori does not disclose taking these measurements and adjusting the transmit power in response to the status of a telephone hookswitch.

Accordingly, claim 19 has been cancelled and claim 20 has been amended to recite a method which includes the step of "adjusting a signal level on [a] digital subscriber line" wherein said adjusting step "occurs in response to a telephone hookswitch changing from being in an on-hook state to being in an off-hook state." Amended claim 20 has been rewritten in independent form and incorporates all the recitals of its base claim, therefore no new matter has been added by this amendment.

Applicants respectfully submit that because Takatori does not disclose changing the transmit power of a digital transmitter when the telephone hookswitch status changes, it does not anticipate the invention of amended claim 20 and request the rejection be withdrawn.

Rejection under 35 U.S.C. § 103(a)

Claims 11, 12, and 17 stand rejected as being unpatentable under 35

U.S.C. § 103(a) over Balachandran in view of U.S. Patent No. 5,347,539 to Sridhar, et al. Claims 13 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Balachandran and Sidhar, and further in view of U.S. Patent No. 6,345,071 to Hamdi. Claim 18 stands rejected as being unpatentable under 35 U.S.C. § 103(a) in view of these same references and further in view of Takatori and U.S. Patent No. 5,265,151 to Goldstein. Claim 20 stands rejected as being unpatentable under 35 U.S.C. § 103(a) over Takatori in view of Balachandran. Applicants respectfully traverse each of these rejections.

As previously set forth above and supported by a Declaration under 37 C.F.R. § 1.131 submitted herewith, Applicants state that the claimed inventions have an invention date which is earlier than the priority date of Balachandran. Balachandran, therefore, does not qualify as prior art under 35 U.S.C. § 103(a). Applicants respectfully request that the rejection of claims 11, 12, 13, 17, 18, 20, and 26 be withdrawn.

Claim 21 stands rejected as being unpatentable under 35 U.S.C. § 103(a) over Takatori in view of Nimmagadda. Dependent claim 21 depends from amended independent claim 20, which is submitted to be patentable over the Takatori reference. Therefore, Applicants respectfully traverse this rejection and request its withdrawal.

Claim 27 stands rejected as being unpatentable under 35 U.S.C. § 103(a) over Takatori in view of Goldstein. Because neither of the two references cited by the Examiner, singly or in combination, suggest the claimed step of "indicating a need to

install an in-line filter if the noise margin does not exceed the threshold" the combination does not result in the claimed invention of amended claim 27.

Takatori discloses an adaptive transmitter for digital transmission that measures cable loss between the central office and the remote site, and adjusts transmit power to a value that provides an acceptable signal-to-noise ratio. Goldstein discloses reducing power level in response to an error rate. Further, Goldstein discloses measuring errors during "intervals or continuously during data transmission." (Col. 9, lines 23-24.)

Amended independent claim 27 recites a method including the step of "indicating a need to install an in-line filter if the noise margin does not exceed the threshold." This step is not disclosed or suggested by Takatori or Goldstein. Therefore, Applicants submit that the combination of these two references will not result in the invention of amended independent claim 27. Support for this amendment can be found in the Specification at, generally, page 23, lines 15-17. Amended independent claim 27 also includes steps which better set forth the claimed invention and are supported by the Specification at pages 22-23. Therefore, no new matter is added.

Accordingly, Applicants state that amended independent claim 27 is in condition for allowance and request that the rejection be withdrawn.

CONCLUSION

Each and every point raised in the Office Action dated November 7, 2002 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 1-32 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Respectfully submitted,



Richard J. Katz
Registration No. 47,698
Agent for Applicants

Dated: April 4, 2003

DARBY & DARBY, P.C.
Post Office Box 5257
New York, NY 10150-5257
Phone (212) 527-7700



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PATENT TRADEMARK OFFICE

Docket No: 3391/OE819

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Rami Verbin; Dudi Baum; Eli Shusterman; and Ilan Sharfer

Serial No.: 09/314,243

Art Unit: 2644

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Filed: May 18, 1999

Examiner: Swerdlow, Daniel

For: METHOD AND APPARATUS FOR IMPROVING PERFORMANCE OF A SPLITTERLESS ASYMETRIC DIGITAL SUBSCRIBER LINE (ADSL)

MARK-UP FOR AMENDMENT OF APRIL 4, 2003
PURSUANT TO 37 C.F.R. § 1.121

20. (Amended) [The method of claim 19] A method for reducing distortion on a digital subscriber line comprising:

performing a channel loss measurement on said digital subscriber line;

determining a minimum required signal level; and

adjusting a signal level on said digital subscriber line to remain above said

minimum required signal level, wherein said [step of] adjusting step [said signal level]

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occurs in response to a telephone hookswitch changing from being in an on-hook state to being in an off-hook state.

27. (Amended) A method for controlling a transmit power level of a modem comprising the steps of:

activating the modem;
measuring a noise margin;
counting errors during a time interval; [and]
comparing the noise margin to a noise margin threshold;
comparing the number of errors to an error threshold;
if the noise margin and number of errors do not exceed the
thresholds, saving the transmit power level;
otherwise decreasing said transmit power level, and
indicating a need to install an in-line-filter if the noise margin does
not exceed the threshold.

28. (Amended) A method for controlling a modem transmission while telephone equipment is in an off-hook state comprising the steps of:

determining the off-hook state by detecting operational changes in
a digital subscriber line modem;
determining if said modem transmission is allowed during said off-
hook state;
setting a minimum power per carrier to support a minimum pre-

defined data rate with a minimum pre-defined noise margin.

31. (Amended) The method of claim [30] 28 further comprising the step of:

initializing a modem.